

Docket No.: 30275/939A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Gerard Mourou et al.

Application No.: 09/775,106

Confirmation No.:

Filed: February 1, 2001

Art Unit: 1725

For: METHOD FOR CONTROLLING
CONFIGURATION OF LASER INDUCED
BREAKDOWN AND ABLATION

Examiner: G. S. Evans

STATEMENT OF FACTS OF RICHARD A. BRANDON UNDER 37 C.F.R. § 1.47

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, RICHARD A. BRANDON, hereby state as follows:

1. I am authorized as Assistant General Counsel for the University of Michigan to make this statement on behalf of the assignee of the instant application, The Regents of the University of Michigan.

2. I make this statement to provide facts personally known to me concerning the circumstances surrounding the refusal of listed inventors Ronald Kurtz and Gerard Mourou, to sign a second supplemental reissue declaration for the above-identified application.

3. As background, on July 22, 1999, Dr. Kurtz executed the original reissue declaration for U.S. Application Serial No. 09/366,685, which is the parent application to the present divisional application. In July, 1999, Dr. Mourou executed the same original reissue declaration.

4. On August 6, 2004, Dr. Kurtz executed a supplemental declaration in the present divisional application. On August 11, 2004, Dr. Mourou executed the same supplemental declaration.

5. In co-pending divisional application USSN 09/775,075, after prosecution, Dr. Kurtz executed two supplemental reissue declarations pursuant to 37 C.F.R. 1.175, on February 24, 2004, and on September 15, 2007. All other inventors, including Dr. Mourou, executed these two supplemental declarations as well. Dr. Kurtz refused to sign a third supplemental reissue declaration in 2009 with respect to that '075 divisional application. Dr. Mourou did execute this third supplemental declaration, on March 19, 2009.

Dr. Kurtz

6. With respect to additional amendments made to the present application after August 6, 2004, I contacted Dr. Kurtz on October 15, 2009 to have him execute a new (now second) supplemental reissue declaration to encompass any errors corrected after August 6, 2004.

7. On October 16, 2009, I provided Dr. Kurtz, via three separate emails: (a) the 2004 filings with his first supplemental declaration and (b) assignee's most recent filing on April 17, 2009, and (c) all the prosecution history falling between those dates. I had also provided Dr. Kurtz with further background information earlier this year when corresponding regarding similar issues relating to the '075 divisional application.

8. I had indicated on October 15 to Dr. Kurtz that if he did not provide the executed declaration by noon on October 20, 2009, we would presume, as with the other divisional application, he was refusing to sign. I did not receive any response by October 20, 2009.

9. On October 21, 2009, Dr. Kurtz sent me a communication via email confirming receipt of my earlier communications. Dr. Kurtz, however, did not sign the second supplemental declaration. He indicated that he wished to have more time to review the documents and that he would review them the week of October 26, 2009. I provided Dr. Kurtz additional time through the date of filing this declaration.

10. Dr. Kurtz has not responded.

Dr. Mourou

11. With respect to additional amendments made to the present application after August 6, 2004, I contacted Dr. Mourou on October 16, 2009 to have him execute a new (now second) supplemental reissue declaration to encompass any errors corrected after August 6, 2004.

12. Dr. Mourou did not respond, so I again contacted Dr. Mourou by e-mail on October 27, 2009, requesting him to review and execute the second supplemental declaration.

13. Dr. Mourou did not respond to this second e-mail, so I contacted him by e-mail again on November 2, 2009, requesting him to review and execute the second supplemental declaration.

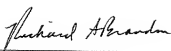
14. On November 3, 2009 I sent a copy of my communications and supplemental declaration by Federal Express, in care of his work address in Palaiseau Cedex, France. The shipment was received and signed for by his receptionist on November 9, 2009.

15. Dr. Mourou did not respond, so in a last attempt to obtain his executed supplemental declaration, I contacted Dr. Dr. Mourou by e-mail on November 9, 2009, requesting him to review and execute the second supplemental declaration, and informing him that I will assume his is not willing to execute the supplemental reissue declaration if I did not receive a response by the close of business in France on November 10, 2009.

16. Dr. Mourou has not responded.

17. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Dated: November 10, 2009

A handwritten signature in cursive script, reading "Richard A. Brandon", is written above a horizontal line.

Richard A. Brandon